IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4149 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LAL BAHADUR SHASTRI VIDYALAYA

Versus

DISTRICT EDUCATION OFFICER

Appearance:

Ms.Sejal Sutaria, for MR VH DESAI for Petitioner

Mr.M.A. Bukhari, AGP, for the Respondent.

CORAM : MR.JUSTICE C.K.THAKKAR

Date of Order: 01/05/2000

ORAL ORDER

This petition is filed by the petitioner for an appropriate writ, direction or order, directing the District Education Officer, Vadodara, the respondent herein, to allow the petitioner to charge monthly fee at Rs.110/- from the students and to declare that the action of the respondent in not deciding the applications made by the petitioner for permission to increase monthly fee

from time to time is unjust, illegal, and violative of Articles 14 and 19 of the Constitution.

The case of the petitioner is that it is a Trust, registered under the Bombay Public Trusts Act, 1950 and is running a primary school. According to the petitioner, it has 18 classes from Standards I to VII and two classes of K.G. There are 21 members of teaching staff and two non-teaching staff. According to the petitioner, it has been granted permission to charge a fee of Rs.85/- per month per student. Since 1995, the petitioner-Trust is charging fees at the rate of Rs.85/- per month per student. It is asserted by the petitioner that the nearby schools are charging per student monthly fees of Rs.110/- to Rs.125/-. The petitioner, therefore, made an application to the respondent for grant of permission to increase the fees from Rs.85/- to Rs.110/-, looking to the increase in the pay scale, dearness allowance, rent, stationery, etc. According to the petitioner, apart from the fact that the permission was not granted, even the application is not disposed of and decided by the respondent. Hence, the petition.

On March 13, 2000, I passed the following order :-

> "... Notice as to admisison as well as final hearing returnable on 23rd March, 2000. Direct service is permitted .... "

Today, I have heard the learned counsel for the parties.

Ms. Sejal Sutaria, for Mr.V.H. Desai, learned counsel for the petitioner, contended that the action of the respondent is not in consonance with law. She submitted that when nearby schools are permitted to increase and collect fees of Rs.110/- to Rs.125/-, there is no reason to discriminate the petitioner. It was also contended that in any case, it was incumbent on the part of the respondent to decide the application, which has been made by the petitioner to him. The action of not deciding the application is contrary to law and deserves to be quashed and set aside. Reliance was also placed in this connection on an order passed by a learned Single Judge of this Court in Civil Application No.1994 of 1999 in Special Civil Application No.6506 of 1987.

In the facts and circumstances of the case, in my opinion, no direction can be given to the respondent to allow the application filed by the petitioner, but the grievance of a limited extent that it was obligatory on

the part of the respondent to consider and decide the application is well-founded and must be upheld. Since the application is made by the petitioner-Trust to the respondent, the respondent is directed to decide the said application in accordance with law as expeditiously as possible, preferably within two months from today. Petition is accordingly allowed to the above extent. In the facts and circumstances, no order as to costs.

1st May, 2000 (C.K. Thakkar, J.)

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(apj)